

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77888695
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant has amended the identification of goods to delete various goods as well as to correct informalities noted by the Examining Attorney. The details of the amendment were discussed with Examiner White during a telephone interview on June 12, 2012.</p> <p>As discussed in the above-identified telephone interview, the identification of goods in both International Classes 09 and 16 has been amended to clarify that the subject matter of the identified goods is in the field of fiction and non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education. It is respectfully submitted that such amendments demonstrate that the goods are sufficiently different from those in the cited U.S. registration no. 1,764,206 to obviate the likelihood of confusion position asserted in the Office Action.</p> <p>Regarding the comparison of marks, the Examining Attorney notes that one feature of a mark may be given more or less weight. This is true, however, provided that the ultimate conclusion rests on consideration of the marks in their entireties. <i>In re National Data Corp.</i>, 753 F.2d 1056 (Fed. Cir. 1985). In the instant situation, when the marks are considered in their entireties and considered in view of their particular goods, each mark evokes a different commercial impression such that a likelihood of confusion does not exist.</p> <p>For example, the mark MANTLE PRODUCTIONS is registered for pre-recorded religious music and pre-recorded educational tapes featuring religion. The term "productions" as it is used here and otherwise commercially has clear connotations of a recording studio or production company. When this is taken in consideration with the religious nature of the goods, it becomes clear that the term "mantle" is meant to further evoke a religious theme, as the term "mantle" is well known to be is an ecclesiastical garment. As mentioned above, various goods that arguably could be considered productions have been removed from the identification of goods in the subject application.</p> <p>In addition to deleting various forms of pre-recorded media and recordings, the identification of goods in the present application recites that various remaining goods are in the fields of fiction and non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education. It is unlikely that this will overlap with any goods consistent with the identification of goods and services in the MANTLE PRODUCTIONS registration. For example, the religious education material under the MANTLE PRODUCTIONS registration would not be considered fictional works. Moreover, the non-fiction works in the present application recite certain fields as well as specifically exclude religious education. A consumer encountering the mark would not afford less weight to the term "productions" since its</p>	

descriptive nature actually informs the consumer about the mark, thereby mitigating possible confusion. See *J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition*, §23.51, (Rel. 50 2009). Thus, the overall impression of this mark, when considered in its entirety, is in marked contrast to the present application for the mark MANTLE, which is for various goods in the field of fiction, non-fiction describing an event or series of events, or specific case studies of a historical nature memoirs, excluding religious education.

In view of the amended identification of goods and the differences between the marks when considered in their entirety, a reasonably prudent consumer would likely not be confused. Accordingly, reconsideration and allowance of this application is respectfully requested.

A notice of appeal is being submitted concurrently to the Trademark Trial and Appeal Board as a precaution.

# **GOODS AND/OR SERVICES SECTION (009)(current)**

<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; multimedia recordings, namely, downloadable MP3 files and MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded multimedia discs and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs recorded on computer media; digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable digital media and recordings, namely, downloadable MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable websites in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; portable electronic memory storage devices, namely, flash drives; flash memory cards	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(d)
<b>FOREIGN APPLICATION NUMBER</b>	1327685
<b>FOREIGN APPLICATION COUNTRY</b>	Australia
<b>FOREIGN FILING DATE</b>	10/23/2009
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION COUNTRY</b>	Australia

**GOODS AND/OR SERVICES SECTION (009)(proposed)****INTERNATIONAL CLASS**

009

**TRACKED TEXT DESCRIPTION**

Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education, recorded on computer media; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; multimedia recordings, namely, downloadable MP3 files and MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; pre-recorded multimedia discs and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs recorded on computer media; digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable digital media and recordings, namely, downloadable MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable websites in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; portable electronic memory storage devices, namely, flash drives; flash memory cards

**FINAL DESCRIPTION**

Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education, recorded on computer media; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education

**FILING BASIS**

Section 1(b)

<b>FILING BASIS</b>	Section 44(d)
<b>FOREIGN APPLICATION NUMBER</b>	1327685
<b>FOREIGN APPLICATION COUNTRY</b>	Australia
<b>FOREIGN FILING DATE</b>	10/23/2009
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION COUNTRY</b>	Australia
<b>GOODS AND/OR SERVICES SECTION (016)(current)</b>	
<b>INTERNATIONAL CLASS</b>	016
<b>DESCRIPTION</b>	
Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; publications, namely, books, in the fields of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; book covers	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(d)
<b>FOREIGN APPLICATION COUNTRY</b>	Australia
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	1327685
<b>FOREIGN REGISTRATION COUNTRY</b>	Australia
<b>FOREIGN REGISTRATION DATE</b>	10/23/2009
<b>FOREIGN EXPIRATION DATE</b>	10/23/2019
<b>GOODS AND/OR SERVICES SECTION (016)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	016
<b>TRACKED TEXT DESCRIPTION</b>	
<del>Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; publications, namely, books, in the fields of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; book covers</del> <u>Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; publications, namely, books, in the fields of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; publications, namely, books, featuring</u>	

fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; book covers

#### **FINAL DESCRIPTION**

Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; book covers

<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(d)
<b>FOREIGN APPLICATION COUNTRY</b>	Australia
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	1327685
<b>FOREIGN REGISTRATION COUNTRY</b>	Australia
<b>FOREIGN REGISTRATION DATE</b>	10/23/2009
<b>FOREIGN EXPIRATION DATE</b>	10/23/2019

#### **SIGNATURE SECTION**

<b>RESPONSE SIGNATURE</b>	/Gary J Pitzer/
<b>SIGNATORY'S NAME</b>	Gary J. Pitzer
<b>SIGNATORY'S POSITION</b>	Attorney of record, Ohio bar member
<b>SIGNATORY'S PHONE NUMBER</b>	216-621-2234
<b>DATE SIGNED</b>	06/12/2012

AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Tue Jun 12 16:13:13 EDT 2012
TEAS STAMP	USPTO/RFR-216.183.176.123 -20120612161313836958-778 88695-4903d52196e424718ac 7458778fc9a7311-N/A-N/A-2 0120612153546415608

PTO Form 1930 (Rev 9/2007)  
OMB No. 0651-0050 (Exp. 4/30/2009)

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. **77888695** has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

Applicant has amended the identification of goods to delete various goods as well as to correct informalities noted by the Examining Attorney. The details of the amendment were discussed with Examiner White during a telephone interview on June 12, 2012.

As discussed in the above-identified telephone interview, the identification of goods in both International Classes 09 and 16 has been amended to clarify that the subject matter of the identified goods is in the field of fiction and non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education. It is respectfully submitted that such amendments demonstrate that the goods are sufficiently different from those in the cited U.S. registration no. 1,764,206 to obviate the likelihood of confusion position asserted in the Office Action.

Regarding the comparison of marks, the Examining Attorney notes that one feature of a mark may be given more or less weight. This is true, however, provided that the ultimate conclusion rests on consideration of the marks in their entirety. *In re National Data Corp.*, 753 F.2d 1056 (Fed. Cir. 1985). In the instant situation, when the marks are considered in their entirety and considered in view of their particular goods, each mark evokes a different commercial impression such that a likelihood of confusion does not exist.

For example, the mark MANTLE PRODUCTIONS is registered for pre-recorded religious music and pre-recorded educational tapes featuring religion. The term "productions" as it is used here and otherwise commercially has clear connotations of a recording studio or production company. When this is taken in consideration with the religious nature of the goods, it becomes clear that the term "mantle" is meant to further evoke a religious theme, as the term "mantle" is well known to be is an ecclesiastical garment.

As mentioned above, various goods that arguably could be considered productions have been removed from the identification of goods in the subject application.

In addition to deleting various forms of pre-recorded media and recordings, the identification of goods in the present application recites that various remaining goods are in the fields of fiction and non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education. It is unlikely that this will overlap with any goods consistent with the identification of goods and services in the MANTLE PRODUCTIONS registration. For example, the religious education material under the MANTLE PRODUCTIONS registration would not be considered fictional works. Moreover, the non-fiction works in the present application recite certain fields as well as specifically exclude religious education.

A consumer encountering the mark would not afford less weight to the term "productions" since its descriptive nature actually informs the consumer about the mark, thereby mitigating possible confusion.

See *J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition*, §23.51, (Rel. 50 2009).

Thus, the overall impression of this mark, when considered in its entirety, is in marked contrast to the present application for the mark MANTLE, which is for various goods in the field of fiction, non-fiction describing an event or series of events, or specific case studies of a historical nature memoirs, excluding religious education.

In view of the amended identification of goods and the differences between the marks when considered in their entireties, a reasonably prudent consumer would likely not be confused. Accordingly, reconsideration and allowance of this application is respectfully requested.

A notice of appeal is being submitted concurrently to the Trademark Trial and Appeal Board as a precaution.

## **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 009 for Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; multimedia recordings, namely, downloadable MP3 files and MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded multimedia discs and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs recorded on computer media; digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable digital media and recordings, namely, downloadable MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable websites in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; portable electronic memory storage devices, namely, flash drives; flash memory cards

**Original Filing Basis:**

**Filing Basis: Section 1(b), Intent to Use:** The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the

identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(d), Priority based on foreign filing:** Applicant has had a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [Australia application number 1327685 filed 10/23/2009]. 15 U.S.C. Section 1126(d), as amended.

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and submits a copy of [ Australia registration number \_\_\_\_\_ registered \_\_\_\_\_ with a renewal date of \_\_\_\_\_ and an expiration date of \_\_\_\_\_ ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:**

**Tracked Text Description:** ~~Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education, recorded on computer media; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; multimedia recordings, namely, downloadable MP3 files and MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; pre-recorded multimedia discs and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs recorded on computer media; digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; pre-recorded digital media and recordings, namely, CDs, downloadable audio files featuring, fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable digital media and recordings, namely, downloadable MP3 recordings featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable websites in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; portable electronic memory storage devices, namely, flash drives; flash memory cards~~

Class 009 for Electronic books and publications, namely, books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education, recorded on computer media; downloadable electronic books and publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-



fiction and memoirs, excluding religious education; audio books featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; downloadable podcasts in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(d), Priority based on foreign filing:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [Australia application number 1327685 filed 10/23/2009]. 15 U.S.C. Section 1126(d), as amended.

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [ Australia registration number \_\_\_\_\_ registered \_\_\_\_\_ with a renewal date of \_\_\_\_\_ and an expiration date of \_\_\_\_\_ ], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 016 for Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; publications, namely, books, in the fields of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; book covers

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(d), Priority based on foreign filing:** Applicant has had a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [Australia application number \_\_\_\_\_ filed \_\_\_\_\_ ]. 15 U.S.C. Section 1126(d), as amended.

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ Australia registration number 1327685 registered 10/23/2009 with a renewal date of \_\_\_\_\_ and an expiration date of 10/23/2019 ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:**

**Tracked Text Description:** ~~Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs;~~ Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case

studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; publications, namely, books, in the fields of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature and memoirs; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; book covers

Class 016 for Printed matter, namely, books in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; publications, namely, books, featuring fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; books, magazines, newsletters, journals, periodicals and catalogues in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; photographs, pictures, posters, instructional and teaching materials in the field of fiction, non-fiction describing an event or series of events or specific case studies of a historical nature in the field of biographies, narrative non-fiction and memoirs, excluding religious education; book covers

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(d), Priority based on foreign filing:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [Australia application number \_\_\_\_\_ filed \_\_\_\_\_]. 15 U.S.C. Section 1126(d), as amended.

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [ Australia registration number 1327685 registered 10/23/2009 with a renewal date of \_\_\_\_\_ and an expiration date of 10/23/2019 ], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

#### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /Gary J Pitzer/ Date: 06/12/2012

Signatory's Name: Gary J. Pitzer

Signatory's Position: Attorney of record, Ohio bar member

Signatory's Phone Number: 216-621-2234

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77888695

Internet Transmission Date: Tue Jun 12 16:13:13 EDT 2012

TEAS Stamp: USPTO/RFR-216.183.176.123-20120612161313

836958-77888695-4903d52196e424718ac74587

78fc9a7311-N/A-N/A-20120612153546415608